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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JAMES PHILIP DOUGLAS

11 Plaintiff,

12 v.

13 SUPERINTENDENT RON VAN BOENING,
14 *et al.*,

15 Defendants.
16

Case No. C09-5152RBL/JRC

REPORT AND
RECOMMENDATION

NOTED FOR:
December 11, 2009

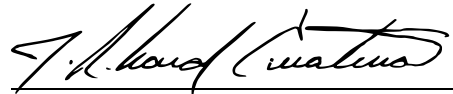
17 This Civil Rights Action, filed pursuant to 42 U.S.C. § 1983, has been referred to the
18 undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and
19 Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. In early September Plaintiff was ordered to
20 submit an amended complaint by October 2, 2009, (Dkt. # 22). The court extended that deadline
21 until November 6, 2009, (Dkt. # 28). As of November 12, 2009, no amended complaint has been
22 received. The court recommends this action be DISMISSED WITH PREJUDICE for failure to
23 prosecute and failure to comply with a court order.
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1 **DISCUSSION**

2 Fed. R. Civ. P. 41(2)(b) allows for dismissal of an action if the plaintiff fails to comply
3 with a court order or fails to prosecute an action. Under this rule, a dismissal acts as adjudication
4 on the merits. Plaintiff has failed to file an amended complaint after being ordered to do so.
5 Accordingly, he has failed to prosecute the action and failed to comply with a court order.
6 Dismissal is appropriate.
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8 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
9 Procedure, the parties shall have ten (10) days from service of this Report to file written
10 objections. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those
11 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the
12 time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on
13 **December 11, 2009**, as noted in the caption.
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15 Dated this 16th day of November, 2009.

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18 J. Richard Creatura
19 United States Magistrate Judge
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